

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_  
2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)  
4 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ROAD CLOSURE LAWS; EMPOWERING THE  
6 DEPARTMENT OF TRANSPORTATION, BOARDS OF COUNTY COMMISSIONERS, AND LAW  
7 ENFORCEMENT OFFICERS TO CLOSE OR RESTRICT USE OF STATE HIGHWAYS OR COUNTY ROADS  
8 DUE TO HAZARDOUS ROAD CONDITIONS; PROVIDING FOR PUBLIC NOTICE OF ROAD CLOSURE OR  
9 RESTRICTION; REQUIRING DRIVERS TO OBSERVE AND OBEY ROAD CLOSURES OR RESTRICTIONS;  
10 PROVIDING EXCEPTIONS; PROVIDING PENALTIES; AND AMENDING SECTION 61-10-154, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 NEW SECTION. **Section 1. Authority of department of transportation and counties.** (1) The  
15 department of transportation may close or restrict use of any commission-designated highway system or state  
16 highway, as defined in 60-1-103, whenever the department considers the closure or restriction necessary for:

17 (a) the protection of the public;  
18 (b) the protection of the highway from damage due to adverse weather conditions or other natural  
19 disasters creating a hazardous condition or during construction, improvement, or maintenance operations of the  
20 highway; or

21 (c) an event subject to an encroachment permit issued pursuant to 60-6-101.

22 (2) A board of county commissioners may close or restrict use of any county road under its control  
23 to:

24 (a) remedy hazardous conditions; or  
25 (b) take action pursuant to 7-14-2127.

26  
27 NEW SECTION. **Section 2. Authority of law enforcement officials -- notice to highway authority.**

28 Whenever a dangerous condition is prevailing on or so near a public highway or county road as to create a

menace to public health or safety, officers of the Montana highway patrol, a police department, or a sheriff's office may temporarily close or restrict use of any public highway or county road to traffic when necessary to protect the public from danger. Whenever closing or restricting use of a public highway or county road occurs, the highway authority having control over the public highway or county road shall be immediately notified of the reason for the closure or restriction and the location. The highway authority shall make the final decision on duration of the closure or restriction.

**NEW SECTION. Section 3. Public notice.** The person or entity responsible for closing or restricting use of a public highway or county road shall ensure public notice of the closure or restriction. Public notice may be achieved by one or more of the following actions:

- (1) erecting suitable barriers or obstructions on the public highway or county road;
- (2) posting signs or providing electronic communication notifications with warnings and notices;
- (3) posting signs for the direction of traffic, including detour signs;
- (4) placing warning devices on the public highway or county road; and
- (5) placing a flagger on or near the public highway or county road to warn, detour, or direct traffic.

**NEW SECTION. Section 4. Observance of notice of highway closure.** (1) Except as provided in subsection (2), a driver shall observe and obey any barrier, obstruction, sign, communication, notification, warning device, or flagger alerting the public to the closure or restriction of use of a public highway or county road.

(2) (a) A driver may request access to a closed or restricted public highway or county road. The person or entity responsible for the closure or restriction may grant access if:

- (i) the driver is requesting permission to travel to a point beyond the closure or restriction, but in an area unaffected by the conditions warranting closure; or
- (ii) the person or entity responsible for the closure or restriction determines that the driver can safely travel under the existing circumstances.

(b) A driver requesting access to a closed or restricted public highway or county road must agree to any conditions imposed by the person or entity responsible for the closure or restriction.

(c) Permission to access a closed or restricted public highway or county road must be granted on a case-by-case basis, unless otherwise determined by the person or entity responsible for the closure or restriction.

**NEW SECTION. Section 5. Penalty for failure to observe and obey notice of highway closure.**

(1) A person who willfully fails to observe any barrier, obstruction, sign, communication, notification, warning device, or flagger alerting the public to the closure or restriction of use of a public highway or county road is guilty of a misdemeanor.

(2) On conviction by a court of competent jurisdiction, a person guilty of violating [section 4] shall be subject to a fine of not more than \$750.

**Section 6.** Section 61-10-154, MCA, is amended to read:

**"61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement -- designation of peace officers -- duties -- violations.** (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5.

(2) The department of transportation shall adopt, by rule, standards for safety of operations of:

(a) any for-hire motor carrier or any private motor carrier;

(b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

(d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;

(e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or

(f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.

(3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

(5) In order to enforce compliance with safety standards adopted pursuant to this section, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under this section;

(b) issue summonses;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles.

(6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section:

(a) has the same authority to enforce provisions of the motor carriers law as that granted to the

1 public service commission under 69-12-203;

2 (b) has the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery  
3 for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in  
4 Montana and to forward the copies to the department of agriculture within 24 hours of the date that the bill of  
5 lading was obtained;

6 (c) has the authority, if probable cause exists, to stop and inspect a supply tank connected to the  
7 engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine  
8 compliance with Title 15, chapter 70, part 4;

9 (d) has for vehicle configurations subject to 61-10-141 and this section, the authority to issue a  
10 citation:

11 (i) pursuant to 61-9-520(1)(a) for violation of 61-9-406(6) when the vehicle configuration causes a  
12 lane blockage; and

13 (ii) pursuant to 61-9-520(1)(b) for violation of 61-9-406(6) when the vehicle configuration causes  
14 an incident that results in the closure of all lanes in one or both directions of a highway; ~~and~~

15 (e) has the authority, if probable cause exists, to stop or detain vehicle configurations subject to  
16 61-10-141 and this section, and issue a citation for violation of [section 4]; and

17 ~~(e)(f)~~ may, on any highway under the jurisdiction of the department of transportation within the  
18 exterior boundaries of a reservation whose tribal government has entered into an agreement with the  
19 department of transportation pursuant to Title 18, chapter 11, part 1, exercise the authority under this part to  
20 issue a citation pursuant to 61-9-520 for violation of 61-9-406(6).

21 (7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-  
22 512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the  
23 department of transportation within 5 days in accordance with 61-11-101.

24 (8) The department of transportation shall report to the transportation interim committee biennially,  
25 in accordance with 5-11-210, on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the  
26 authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special  
27 revenue fund."  
28

8 - END -